

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NANCY LOPEZ, etc.,)	
)	
Plaintiffs,)	
)	
v.)	No. 07 C 2972
)	
BEARJ ANTONIO HAIR SALON AND SPA,)	
LTD., et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Nancy Lopez ("Lopez") has filed a Fair Labor Standards Act ("FLSA") action against Bearj Antonio Hair Salon and Spa, Ltd. ("Bearj Salon") and Bearj Ohanian, charging a failure to pay statutorily required overtime wages to Lopez and others. This sua sponte memorandum order is triggered by the dramatic pleading change emanating from the Supreme Court in Bell Atl. Corp. v. Twombly, 75 U.S.L.W. 4337, 4340-42 (U.S. May 21, 2007).

To be sure, testing the adequacy of Lopez' Complaint should ordinarily await a Fed. R. Civ. P. ("Rule") 12(b)(6) defense motion. But in light of the newly-announced Bell Atl. regime applicable to such motions, it would seem wise to anticipate the matter by requiring that one obvious hole in the Complaint be plugged at the outset.¹ Although Complaint ¶6 alleges in conclusory fashion that defendants are FLSA "employers," it is

¹ This memorandum order does not seek to address any other possible flaws in the pleading, leaving that instead to defense counsel.

silent as to the other statutory factor or factors that are essential to FLSA coverage for Lopez and her fellow employees.

Accordingly Lopez' counsel are ordered forthwith to file an appropriate amendment to the Complaint containing the necessary allegations to establish such coverage. In the meantime, on the assumption that the flaw identified in this memorandum order can be cured, this Court is issuing its customary initial scheduling order.

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style.

Milton I. Shadur
Senior United States District Judge

Date: June 4, 2007